

**ORIGINAL
RECEIVED**

DEC 19 1996

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of) CC Docket No. 96-45
)
Federal-State Joint Board on)
Universal Service)

DOCKET FILE COPY ORIGINAL

To: The Common Carrier Bureau

**Comments of
Association of America's Public Television Stations and
Public Broadcasting Service
on Joint Board Recommended Decision**

Paula A. Jameson
Vice President, General Counsel
and Secretary

Ann Zedd
Assistant General Counsel

Public Broadcasting Service
1320 Braddock Place
Alexandria, VA 22314-1698
(703) 739-5056

Marilyn Mohrman-Gillis
Vice President, Policy & Legal Affairs

Lonna M. Thompson
Director, Legal Affairs

Association of America's
Public Television Stations
1350 Connecticut Avenue, N.W.,
Suite 200
Washington, DC. 20036
(202) 887-8401

December 19, 1996

No. of Copies rec'd 0413
List ABCDE

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC. 20554

In the Matter of)	CC Docket No. 96-45
)	
Federal-State Joint Board on)	
Universal Service)	

To: The Common Carrier Bureau

**Comments of
Association of America's Public Television Stations and
Public Broadcasting Service
on Joint Board Recommended Decision**

The Association of America's Public Television Stations ("APTS") and the Public Broadcasting Service ("PBS") submit these comments in response to the Common Carrier Bureau Public Notice, released November 18, 1996 ("CCB Notice") seeking comment on the Recommended Decision of the Federal-State Joint Board ("Joint Board"), released on November 8, 1996 ("Recommended Decision"). APTS and PBS have participated throughout this proceeding, in which the Commission will be proposing rules, based upon the Joint Board's recommendations, to implement the universal service access provisions of the Telecommunications Act of 1996 ("Act").¹

¹ In response to the Commission's Notice of Proposed Rulemaking in this proceeding, APTS filed comments on April 12, 1996, and PBS filed reply comments on May 7, 1996. On August 2, 1996, APTS and PBS filed joint Further Comments in response to a request from the Common Carrier Bureau for additional information from the public.

Introduction

APTS and PBS are nonprofit organizations whose members comprise the licensees of nearly all of the nation's 351 public television stations. APTS represents its membership on a national level by presenting the stations' views to the Commission, Congress, the Executive Branch and to other federal agencies and policy makers. PBS provides program distribution and other services to its members. PBS is also a leader in the development of new and improved television technologies and frequently speaks for the public television community in matters relating to TV technology.

APTS and PBS Support the Joint Board's Recommendation Not To Limit the Services or Functionalities Eligible for Discounts

Section 254(c)(3) of the Act authorizes the FCC to designate, in addition to those core telecommunications services that are to be supported by universal support mechanisms, the advanced telecommunications services that will be provided to schools and libraries at discounted rates. APTS and PBS support the Joint Board's Recommended Decision not to limit the services or functionalities that will be included in the advanced telecommunications services eligible for discounts. Rather, the Joint Board recognizes the wisdom in allowing eligible schools and libraries individually to choose the services to which they require access. APTS and PBS support the Joint Board's recommendation that "the Commission adopt a rule that provides schools and libraries with the maximum flexibility to purchase whatever package of telecommunications services they believe will meet their telecommunications needs most effectively and efficiently" (Recommended Decision, at 458).

As stated in earlier filings, APTS and PBS believe that specific limitations should not be placed on the services available at discounted rates, as it is impossible to anticipate at this point the kinds of valuable educational services that may be provided or the kinds of facilities that may be required to make those services available to classrooms nationwide. Therefore, as the Joint Board recognizes, it is essential that eligible educational institutions be permitted to determine the services and facilities they need to accomplish their educational goals.

Specifically, APTS and PBS support the Joint Board's recommendation to include in the definition of advanced telecommunications services eligible for discounted rates broadband video and high speed data transmission services. This recommendation will allow elementary and secondary classrooms and libraries to have access to the facilities necessary to receive the wealth of interactive educational services currently provided by PBS and public television stations. These kinds of services could be made more widely available to schools, libraries, and health care facilities across the country if telecommunications facilities were available to carry them at discounted rates.

The Joint Board's Recommendation Not to Include Educational Institutions in Distance Learning Consortia As Eligible for Discounts Is In Direct Conflict With Expressed Congressional Intent

In earlier comments filed in this proceeding, APTS and PBS discussed the importance of including educational institutions providing distant learning services as eligible for discounted rates, consistent with expressed Congressional intent. In its Recommended Decision, the Joint Board addresses public television's comments and

concludes that only schools and libraries as defined by Section 254(h) of the Act will be included in the entities eligible for discounted rates. Further, the Joint Board concludes that "those not directly eligible for support should not be permitted to gain eligibility by participating in consortia with those who are eligible, even if the former seek to further educational objectives for students who attend eligible schools" (Recommended Decision, at 593).

This conclusion of the Joint Board directly conflicts with the expressed intent of Congress regarding distant learning consortia. The Conference Report accompanying the Act specifically states that the "conferees intend that consortiums of educational institutions providing distance learning to elementary and secondary institutions be considered an educational provider" for purposes of Section 254(h)(5). Thus, it is very clear that Congress intended consortia of educational institutions providing distant learning services to be eligible for discounted rates.

To carry out Congressional intent, the Commission's rules should specify that consortia of educational institutions, including those that are educational television station licensees, will qualify directly for the discounted rates mandated by Section 254(h)(1)(B) of the 1996 Act. This will enable these educational providers to make distant learning services more widely available to schools and libraries, consistent with the intent of the statute.

The Commission Should Extend the Universal Service Provisions to Include Captioning Services for Instructional Programming

The Commission should decide that discounted rates will be available for services for closed captioning instructional video programming for schools and libraries. Section 713 of the Telecommunications Act instructs the Commission to adopt rules requiring closed captioning of programming produced after the effective date of the rules. Further, Section 713 addresses maximizing the closed captioning of archived programming. However, Section 713 specifies no funding mechanism for complying with these rules. Public television stations are very concerned about their inability to cover the costs of closed captioning instructional programming provided to schools and libraries.

The Commission should extend the universal service discount provisions to allow use by public television stations for closed captioning of instructional programming provided by public television stations to schools and libraries. Assuring accessibility to instructional video programming for hearing-impaired students in the classrooms is within the core intent of the Section 254 universal service provisions of the Telecommunications Act.²

² APTS and PBS are not suggesting shifting the burden of captioning instructional programming to schools. Rather, APTS and PBS are recommending that the Commission consider extending the definition of entities eligible for discounted rates to include public television stations for the limited use of closed captioning services for captioning instructional programming to schools and libraries. As an alternative the Commission could create an exemption to the Section 254(h)(3) prohibition against resale of discounted services to allow schools and libraries to obtain the closed captioning services at a discounted rate and resell those services to public television stations.

CONCLUSION

As detailed in the previous APTS and PBS filings in this proceeding, public television offers the American public a wealth of diverse and expansive educational services. In developing rules to ensure universal access, the Commission should adopt the Joint Board's recommendation not to limit the advanced telecommunications services eligible for discounts and to allow schools and libraries maximum flexibility to choose the services important to achieve individualized educational goals. Further, the Commission should follow the express intent of Congress and include educational entities participating in distance learning consortia as directly eligible for discounted rates. Lastly, the Commission should provide for discounted rates for closed captioning services to ensure that the Act's intent of accessibility is achieved on all levels.

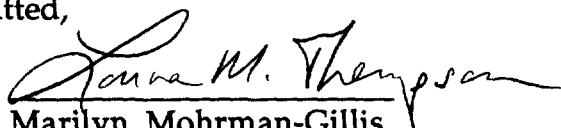
Respectfully submitted,



Paula A. Jameson
Senior Vice President, General Counsel
and Secretary

Ann Zedd
Assistant General Counsel

Public Broadcasting Service
1320 Braddock Place
Alexandria, VA 22314-1698
(703) 739-5056



Marilyn Mohrman-Gillis
Vice President, Policy & Legal
Affairs

Lonna M. Thompson
Director, Legal Affairs

Association of America's
Public Television Stations
1350 Connecticut Avenue, N.W.,
Suite 200
Washington, DC. 20036
(202) 887-1700

December 19, 1996

CERTIFICATE OF SERVICE

I, Tina T. Butler, hereby certify that copies of the foregoing "Comments of Association of America's Public Television Stations and Public Broadcasting Service on Joint Board's Recommended Decision" have been mailed this 19th day of December, 1996, by United States first-class mail, postage prepaid, to the following:

The Honorable Reed E. Hundt, Chairman
Federal Communications Commission
1919 M Street, N.W.
Room 814
Washington, D.C. 20554

The Honorable Rachelle B. Chong, Commissioner
Federal Communications Commission
Room 844
1919 M Street, N.W.
Washington, D.C. 20554

The Honorable Susan Ness, Commissioner
Federal Communications Commission
1919 M Street, N.W.
Room 832
Washington, D.C. 20554

The Honorable Julia L. Johnson
Commissioner
Florida Public Service Commission
Capital Circle Office Center
2540 Shumard Oak Blvd.
Gerald Gunter Building
Tallahassee, FL 32399-0850

The Honorable Kenneth McClure
Commissioner
Missouri Public Service Commission
301 W. High Street, Suite 530
Jefferson City. MO 65102

The Honorable Laska Schoenfelder
Commissioner
South Dakota Public Utilities Commission
State Capitol
500 E. Capitol Street
Pierre, SD 57501-5070

The Honorable Sharon L. Nelson
Commissioner
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, WA 98504-7250

Martha S. Hogerty
Public Counsel for the State of Missouri
P.O. Box 7800
Harry S. Truman Building, Room 250
Jefferson City, MO 65102

Paul E. Pederson, State Staff Chair
Missouri Public Service Commission
P.O. Box 360
Truman State Office Building
Jefferson City, MO 65102

Eileen Benner
Idaho Public Utilities Commission
P.O. Box 83720
Boise, ID 83720-0074

Charles Bolle
South Dakota Public Utilities Commission
State Capital, 500 E. Capital Avenue
Pierre, SD 57501-5070

Lorraine Kenyon
Alaska Public Utilities Commission
1016 West Sixth Avenue, Suite 400
Anchorage, AK 99501

Debra M. Kriete
Pennsylvania Public Utilities Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Mark Long
Florida Public Service Commission
2540 Shumard Oak Blvd.
Gerald Gunter Building
Tallahassee, FL 32399-0850

Samuel Loudenslager
Arkansas Public Service Commission
P.O. Box 400
Little Rock, AR 72203-0400

Sandra Makeeff
Iowa Utilities Board
Lucas State Office Building
Des Moines, IA 50319

Philip F. McClelland
Pennsylvania Office of Consumer Advocate
1425 Strawberry Square
Harrisburg, PA 17120

Michael A. McRae
D.C. Office of the People's Counsel
1133 15th Street, N.W. - Suite 500
Washington, DC 20005

Terry Monroe
New York Public Service Commission
Three Empire Plaza
Albany, NY 12223

Mark Nadel
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554

Lee Palagyi
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, WA 98504-7250

Jeanine Poltronieri
Federal Communications Commission
2000 L Street, N.W. - Suite 257
Washington, DC 20036

James Bradford Ramsay
National Association of Regulatory Utility Commissioners
1201 Constitution Avenue, N.W.
Washington, DC 20423

Jonathan Reel
Federal Communications Commission
2000 L Street, N.W. - Suite 257
Washington, DC 20036

Brian Roberts
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102-3298

Gary Seigel
Federal Communications Commission
2000 L Street, N.W. - Suite 812
Washington, DC 20036

Pamela Szymczak
Federal Communications Commission
2000 L Street, N.W. - Suite 257
Washington, DC 20036

Whiting Thayer
Federal Communications Commission
2000 L Street, N.W. - Suite 812
Washington, DC 20036

Alex Belinfante
Federal Communications Commission
2000 L Street, N.W.
Washington, DC 20036

Larry Povich
Federal Communications Commission
2000 L Street, N.W.
Washington, DC 20036

Tina T. Butler